

AMENDMENTS TO LB 155

Introduced by Judiciary.

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Section 28-101, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 28-101 Sections 28-101 to 28-1350 and sections 2 to 6, 8
6 to 12, and 14 of this act shall be known and may be cited as the
7 Nebraska Criminal Code.

8 Sec. 2. Sections 2 to 6 of this act shall be known and
9 may be cited as the Public Protection Act.

10 Sec. 3. (1) The provisions of the Public Protection Act
11 shall be liberally construed to effectuate its remedial purposes.

12 (2) Nothing in the act shall supersede any provision
13 of federal, state, or other law imposing criminal penalties or
14 affording civil remedies in addition to those provided for in the
15 act.

16 Sec. 4. For purposes of the Public Protection Act:

17 (1) Enterprise means any individual, sole proprietorship,
18 partnership, corporation, trust, association, or any legal entity,
19 union, or group of individuals associated in fact although not
20 a legal entity, and shall include illicit as well as licit
21 enterprises as well as other entities;

22 (2) Pattern of racketeering activity means a cumulative
23 loss for one or more victims or gains for the enterprise of not

1 less than one thousand five hundred dollars resulting from at least
2 two acts of racketeering activity, one of which occurred after
3 the effective date of this act and the last of which occurred
4 within ten years, excluding any period of imprisonment, after the
5 commission of a prior act of racketeering activity;

6 (3) Person means any individual or entity, as defined in
7 section 21-2014, holding or capable of holding a legal, equitable,
8 or beneficial interest in property;

9 (4) Prosecutor includes the Attorney General of the
10 State of Nebraska, the deputy attorney general, assistant attorneys
11 general, a county attorney, a deputy county attorney, or any person
12 so designated by the Attorney General, a county attorney, or a
13 court of the state to carry out the powers conferred by the act;

14 (5) Racketeering activity includes the commission of,
15 criminal attempt to commit, conspiracy to commit, aiding and
16 abetting in the commission of, aiding in the consummation of,
17 acting as an accessory to the commission of, or the solicitation,
18 coercion, or intimidation of another to commit or aid in the
19 commission of any of the following:

20 (a) Offenses against the person which include: Murder in
21 the first degree under section 28-303; murder in the second degree
22 under section 28-304; manslaughter under section 28-305; assault in
23 the first degree under section 28-308; assault in the second degree
24 under section 28-309; assault in the third degree under section
25 28-310; terroristic threats under section 28-311.01; kidnapping
26 under section 28-313; false imprisonment in the first degree under
27 section 28-314; false imprisonment in the second degree under

1 section 28-315; sexual assault in the first degree under section
2 28-319; and robbery under section 28-324;

3 (b) Offenses relating to controlled substances which
4 include: To unlawfully manufacture, distribute, deliver, dispense,
5 or possess with intent to manufacture, distribute, deliver, or
6 dispense a controlled substance under subsection (1) of section
7 28-416; possession of marijuana weighing more than one pound
8 under subsection (12) of section 28-416; possession of money
9 used or intended to be used to facilitate a violation of
10 subsection (1) of section 28-416 prohibited under subsection
11 (17) of section 28-416; any violation of section 28-418; to
12 unlawfully manufacture, distribute, deliver, or possess with intent
13 to distribute or deliver an imitation controlled substance under
14 section 28-445; possession of anhydrous ammonia with the intent to
15 manufacture methamphetamine under section 28-451; and possession of
16 ephedrine, pseudoephedrine, or phenylpropanolamine with the intent
17 to manufacture methamphetamine under section 28-452;

18 (c) Offenses against property which include: Arson in
19 the first degree under section 28-502; arson in the second degree
20 under section 28-503; arson in the third degree under section
21 28-504; burglary under section 28-507; theft by unlawful taking
22 or disposition under section 28-511; theft by shoplifting under
23 section 28-511.01; theft by deception under section 28-512; theft
24 by extortion under section 28-513; theft of services under section
25 28-515; theft by receiving stolen property under section 28-517;
26 criminal mischief under section 28-519; and unlawfully depriving
27 or obtaining property or services using a computer under section

1 28-1344;

2 (d) Offenses involving fraud which include: Burning to
3 defraud an insurer under section 28-505; forgery in the first
4 degree under section 28-602; forgery in the second degree under
5 section 28-603; criminal possession of a forged instrument under
6 section 28-604; criminal possession of forgery devices under
7 section 28-605; criminal impersonation under section 10 of this
8 act; identity theft under section 11 of this act; identity fraud
9 under section 12 of this act; false statement or book entry
10 under section 28-612; tampering with a publicly exhibited contest
11 under section 28-614; issuing a false financial statement for
12 purposes of obtaining a financial transaction device under section
13 28-619; unauthorized use of a financial transaction device under
14 section 28-620; criminal possession of a financial transaction
15 device under section 28-621; unlawful circulation of a financial
16 transaction device in the first degree under section 28-622;
17 unlawful circulation of a financial transaction device in the
18 second degree under section 28-623; criminal possession of a blank
19 financial transaction device under section 28-624; criminal sale
20 of a blank financial transaction device under section 28-625;
21 criminal possession of a forgery device under section 28-626;
22 unlawful manufacture of a financial transaction device under
23 section 28-627; laundering of sales forms under section 28-628;
24 unlawful acquisition of sales form processing services under
25 section 28-629; unlawful factoring of a financial transaction
26 device under section 28-630; and fraudulent insurance acts under
27 section 28-631;

1 (e) Offenses involving governmental operations which
2 include: Abuse of public records under section 28-911; perjury or
3 subornation of perjury under section 28-915; bribery under section
4 28-917; bribery of a witness under section 28-918; tampering with
5 a witness or informant or jury tampering under section 28-919;
6 bribery of a juror under section 28-920; assault on an officer in
7 the first degree under section 28-929; assault on an officer in the
8 second degree under section 28-930; assault on an officer in the
9 third degree under section 28-931; and assault on an officer using
10 a motor vehicle under section 28-931.01;

11 (f) Offenses involving gambling which include: Promoting
12 gambling in the first degree under section 28-1102; possession of
13 gambling records under section 28-1105; gambling debt collection
14 under section 28-1105.01; and possession of a gambling device under
15 section 28-1107;

16 (g) Offenses relating to firearms, weapons, and
17 explosives which include: Carrying a concealed weapon under
18 section 28-1202; transportation or possession of machine guns,
19 short rifles, or short shotguns under section 28-1203; unlawful
20 possession of a revolver under section 28-1204; unlawful transfer
21 of a firearm to a juvenile under section 28-1204.01; using a deadly
22 weapon to commit a felony under section 28-1205; possession of a
23 deadly weapon by a felon or a fugitive from justice under section
24 28-1206; possession of a defaced firearm under section 28-1207;
25 defacing a firearm under section 28-1208; unlawful discharge of a
26 firearm under section 28-1212.02; possession, receipt, retention,
27 or disposition of a stolen firearm under section 28-1212.03;

1 unlawful possession of explosive materials in the first degree
2 under section 28-1215; unlawful possession of explosive materials
3 in the second degree under section 28-1216; unlawful sale of
4 explosives under section 28-1217; use of explosives without a
5 permit under section 28-1218; obtaining an explosives permit
6 through false representations under section 28-1219; possession
7 of a destructive device under section 28-1220; threatening the
8 use of explosives or placing a false bomb under section 28-1221;
9 using explosives to commit a felony under section 28-1222; using
10 explosives to damage or destroy property under section 28-1223;
11 and using explosives to kill or injure any person under section
12 28-1224;

13 (h) Any violation of the Securities Act of Nebraska
14 pursuant to section 8-1117;

15 (i) Any violation of the Nebraska Revenue Act of 1967
16 pursuant to section 77-2713;

17 (j) Offenses relating to public health and morals which
18 include: Prostitution under section 28-801; pandering under section
19 28-802; keeping a place of prostitution under section 28-804; human
20 trafficking or forced labor or services under section 28-831; a
21 violation of section 28-1005; and any act relating to the visual
22 depiction of sexually explicit conduct prohibited in the Child
23 Pornography Prevention Act; and

24 (k) A violation of the Computer Crimes Act;

25 (6) State means the State of Nebraska or any political
26 subdivision or any department, agency, or instrumentality thereof;
27 and

1 (7) Unlawful debt means a debt of at least one thousand
2 five hundred dollars:

3 (a) Incurred or contracted in gambling activity which was
4 in violation of federal law or the law of the state or which is
5 unenforceable under state or federal law in whole or in part as to
6 principal or interest because of the laws relating to usury; or

7 (b) Which was incurred in connection with the business
8 of gambling in violation of federal law or the law of the state
9 or the business of lending money or a thing of value at a rate
10 usurious under state law if the usurious rate is at least twice the
11 enforceable rate.

12 Sec. 5. (1) It shall be unlawful for any person who has
13 received any proceeds that such person knew were derived, directly
14 or indirectly, from a pattern of racketeering activity or through
15 collection of an unlawful debt to use or invest, whether directly
16 or indirectly, any part of such proceeds, or the proceeds derived
17 from the investment or use thereof, in the acquisition of any
18 right, interest, or equity in real property or in the establishment
19 or operation of any enterprise. A purchase of securities on the
20 open market for purposes of investment, and without the intention
21 of controlling or participating in the control of the issuer or
22 of assisting another to do so, shall not be unlawful under this
23 subsection if the securities of the issuer held by the purchaser,
24 the members of his or her immediate family, and his or her or
25 their accomplices in any pattern of racketeering activity or the
26 collection of an unlawful debt after such purchase do not amount in
27 the aggregate to one percent of the outstanding securities of any

1 one class and do not confer, either in law or in fact, the power to
2 elect one or more directors of the issuer.

3 (2) It shall be unlawful for any person through a pattern
4 of racketeering activity or through collection of an unlawful debt
5 to acquire or maintain, directly or indirectly, any interest in or
6 control of any enterprise or real property.

7 (3) It shall be unlawful for any person employed by
8 or associated with any enterprise to conduct or participate
9 in, directly or indirectly, the conduct of such enterprise's
10 affairs through a pattern of racketeering activity or collection of
11 unlawful debt.

12 (4) It shall be unlawful for any person to conspire or
13 attempt to violate any of the provisions of subsections (1), (2),
14 or (3) of this section.

15 Sec. 6. (1) A person who violates section 5 of this act
16 shall be guilty of a Class III felony; however, such person shall
17 be guilty of a Class IB felony if the violation is based upon
18 racketeering activity which is punishable as a Class I, IA, or IB
19 felony.

20 (2) In lieu of the fine authorized by section 28-105, any
21 person convicted of engaging in conduct in violation of section
22 5 of this act, through which pecuniary value was derived, or
23 by which personal injury or property damage or other loss was
24 caused, may be sentenced to pay a fine that does not exceed
25 three times the gross value gained or three times the gross loss
26 caused, whichever is greater, plus court costs and the costs
27 of investigation and prosecution reasonably incurred. Any fine

1 collected under this subsection shall be remitted to the State
2 Treasurer for distribution in accordance with Article VII, section
3 5, of the Constitution of Nebraska.

4 Sec. 7. Section 28-518, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 28-518 (1) Theft constitutes a Class III felony when the
7 value of the thing involved is over one thousand five hundred
8 dollars.

9 (2) Theft constitutes a Class IV felony when the value of
10 the thing involved is five hundred dollars or more, but not over
11 one thousand five hundred dollars.

12 (3) Theft constitutes a Class I misdemeanor when the
13 value of the thing involved is more than two hundred dollars, but
14 less than five hundred dollars.

15 (4) Theft constitutes a Class II misdemeanor when the
16 value of the thing involved is two hundred dollars or less.

17 (5) For any second or subsequent conviction under
18 subsection (3) of this section, any person so offending shall be
19 guilty of a Class IV felony.

20 (6) For any second conviction under subsection (4) of
21 this section, any person so offending shall be guilty of a Class
22 I misdemeanor, and for any third or subsequent conviction under
23 subsection (4) of this section, the person so offending shall be
24 guilty of a Class IV felony.

25 (7) Amounts taken pursuant to one scheme or course of
26 conduct from one ~~person~~ or more persons may be aggregated in the
27 indictment or information in determining the classification of the

1 offense, except that amounts may not be aggregated into more than
2 one offense.

3 (8) In any prosecution for theft under sections 28-509
4 to 28-518, value shall be an essential element of the offense that
5 must be proved beyond a reasonable doubt.

6 Sec. 8. For purposes of sections 8 to 12 of this act:

7 (1) Personal identification document means a birth
8 certificate, motor vehicle operator's license, state identification
9 card, public, government, or private employment identification
10 card, social security card, visa work permit, firearm owner's
11 identification card, certificate issued under section 69-2404, or
12 passport or any document made or altered in a manner that it
13 purports to have been made on behalf of or issued to another person
14 or by the authority of a person who did not give that authority.
15 Personal identification document does not include a financial
16 transaction device as defined in section 28-618;

17 (2) Personal identifying information means any name or
18 number that may be used, alone or in conjunction with any other
19 information, to identify a specific person including a person's:
20 (a) Name; (b) date of birth; (c) address; (d) motor vehicle
21 operator's license number or state identification card number
22 as assigned by the State of Nebraska or another state; (e)
23 social security number or visa work permit number; (f) public,
24 private, or government employer, place of employment, or employment
25 identification number; (g) maiden name of a person's mother; (h)
26 number assigned to a person's credit card, charge card, or debit
27 card, whether issued by a financial institution, corporation,

1 or other business entity; (i) number assigned to a person's
2 depository account, savings account, or brokerage account; (j)
3 personal identification number as defined in section 8-157.01;
4 (k) electronic identification number, address, or routing code
5 used to access financial information; (l) digital signature; (m)
6 telecommunications identifying information or access device; (n)
7 unique biometric data, such as fingerprint, voice print, retina
8 or iris image, or other unique physical representation; and (o)
9 other number or information which can be used to access a person's
10 financial resources; and

11 (3) Telecommunications identifying information or access
12 device means a card, plate, code, account number, mobile
13 identification number, or other telecommunications service,
14 equipment, or instrument identifier or means of account access that
15 alone or in conjunction with other telecommunications identifying
16 information or another telecommunications access device may be
17 used to: (a) Obtain money, goods, services, or any other thing of
18 value; or (b) initiate a transfer of funds other than a transfer
19 originated solely by a paper instrument.

20 Sec. 9. For purposes of sections 8 to 12 of this act:

21 (1) Notwithstanding any other provision of law, venue for
22 the prosecution and trial of violations of sections 8 to 12 of
23 this act may be commenced and maintained in any county in which
24 an element of the offense occurred, including the county where a
25 victim resides; and

26 (2) If a person or entity reasonably believes that he,
27 she, or it has been the victim of a violation of sections 8 to

1 12 of this act, the victim may contact a local law enforcement
2 agency which has jurisdiction over the victim's residence, place of
3 business, or registered address. Notwithstanding that jurisdiction
4 may lie elsewhere for investigation and prosecution of a crime
5 of identity theft, the local law enforcement agency shall take
6 the complaint and provide the complainant with a copy of the
7 complaint and refer the complaint to a law enforcement agency in
8 the appropriate jurisdiction.

9 Sec. 10. Section 28-608, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 ~~28-608~~ (1) A person commits the crime of criminal
12 impersonation if he or she:

13 ~~(a) Assumes a false identity and does an act in his or~~
14 ~~her assumed character with intent to gain a pecuniary benefit for~~
15 ~~himself, herself, or another or to deceive or harm another;~~

16 ~~(b)~~ (a) Pretends to be a representative of some person
17 or organization and does an act in his or her pretended fictitious
18 capacity with the intent to gain a pecuniary benefit for himself,
19 herself, or another and to deceive or harm another;

20 ~~(c)~~ (b) Carries on any profession, business, or any other
21 occupation without a license, certificate, or other authorization
22 required by law; ~~or~~

23 ~~(d) Without the authorization or permission of another~~
24 ~~and with the intent to deceive or harm another;~~

25 ~~(i) Obtains or records personal identification documents~~
26 ~~or personal identifying information; and~~

27 ~~(ii) Accesses or attempts to access the financial~~

1 resources of another through the use of a personal identification
2 document or personal identifying information for the purpose of
3 obtaining credit, money, goods, services, or any other thing of
4 value.

5 (c) Knowingly provides false personal identifying
6 information or a false personal identification document to a court
7 or a law enforcement officer; or

8 (d) Knowingly provides false personal identifying
9 information or a false personal identification document to an
10 employer for the purpose of obtaining employment.

11 (2) (a) Criminal impersonation, as described in
12 subdivisions (1) (a) and (1) (b) of this section, is a Class III
13 felony if the credit, money, goods, services, or other thing of
14 value that was gained or was attempted to be gained was one
15 thousand five hundred dollars or more. Any second or subsequent
16 conviction under this subdivision is a Class II felony.

17 (b) Criminal impersonation, as described in subdivisions
18 (1) (a) and (1) (b) of this section, is a Class IV felony if the
19 credit, money, goods, services, or other thing of value that was
20 gained or was attempted to be gained was five hundred dollars or
21 more but less than one thousand five hundred dollars. Any second or
22 subsequent conviction under this subdivision is a Class III felony.

23 (c) Criminal impersonation, as described in subdivisions
24 (1) (a) and (1) (b) of this section, is a Class I misdemeanor if the
25 credit, money, goods, services, or other thing of value that was
26 gained or was attempted to be gained was two hundred dollars or
27 more but less than five hundred dollars. Any second or subsequent

1 conviction under this subdivision is a Class IV felony.

2 (d) Criminal impersonation, as described in subdivisions
3 (1) (a) and (1) (b) of this section, is a Class II misdemeanor if
4 no credit, money, goods, services, or other thing of value was
5 gained or was attempted to be gained, or if the credit, money,
6 goods, services, or other thing of value that was gained or was
7 attempted to be gained was less than two hundred dollars. Any
8 second conviction under this subdivision is a Class I misdemeanor,
9 and any third or subsequent conviction under this subdivision is a
10 Class IV felony.

11 (e) Criminal impersonation, as described in subdivision
12 (1) (c) of this section, is a Class IV felony. Any second conviction
13 under this subdivision is a Class III felony, and any third or
14 subsequent conviction under this subdivision is a Class II felony.

15 (f) Criminal impersonation, as described in subdivision
16 (1) (d) of this section, is a Class II misdemeanor. Any second
17 or subsequent conviction under this subdivision is a Class I
18 misdemeanor.

19 (e) (g) A person found guilty of violating this section
20 may, in addition to the penalties under this subsection, be ordered
21 to make restitution pursuant to sections 29-2280 to 29-2289.

22 ~~(3) Criminal impersonation does not mean:~~

23 ~~(a) The lawful obtaining of credit information in the~~
24 ~~course of a bona fide consumer or commercial transaction;~~

25 ~~(b) The lawful, good faith exercise of a security~~
26 ~~interest or a right of setoff by a creditor or a financial~~
27 ~~institution; or~~

1 ~~(c) The lawful, good faith compliance by any person~~
2 ~~when required by any warrant, levy, garnishment, attachment, court~~
3 ~~order, or other judicial or administrative order, decree, or~~
4 ~~directive.~~

5 ~~(4) For purposes of this section:~~

6 ~~(a) Personal identification document means a birth~~
7 ~~certificate, motor vehicle operator's license, state identification~~
8 ~~card, public, government, or private employment identification~~
9 ~~card, social security card, visa work permit, firearm owner's~~
10 ~~identification card, certificate issued under section 69-2404, or~~
11 ~~passport or any document made or altered in a manner that it~~
12 ~~purports to have been made on behalf of or issued to another person~~
13 ~~or by the authority of a person who did not give that authority.~~
14 ~~Personal identification document does not include a financial~~
15 ~~transaction device as defined in section 28-618.~~

16 ~~(b) Personal identifying information means any name or~~
17 ~~number that may be used, alone or in conjunction with any other~~
18 ~~information, to identify a specific person including a person's:~~
19 ~~(i) Name; (ii) date of birth; (iii) address; (iv) motor vehicle~~
20 ~~operator's license number or state identification card number~~
21 ~~as assigned by the State of Nebraska or another state; (v)~~
22 ~~social security number or visa work permit number; (vi) public,~~
23 ~~private, or government employer, place of employment, or employment~~
24 ~~identification number; (vii) maiden name of a person's mother;~~
25 ~~(viii) number assigned to a person's credit card, charge card, or~~
26 ~~debit card, whether issued by a financial institution, corporation,~~
27 ~~or other business entity; (ix) number assigned to a person's~~

1 ~~depository account, savings account, or brokerage account; (x)~~
2 ~~personal identification number as defined in section 8-157.01; (xi)~~
3 ~~electronic identification number, address, or routing code used~~
4 ~~to access financial information; (xii) digital signature; (xiii)~~
5 ~~telecommunications identifying information or access device; (xiv)~~
6 ~~unique biometric data, such as fingerprint, voice print, retina~~
7 ~~or iris image, or other unique physical representation; and (xv)~~
8 ~~other number or information which can be used to access a person's~~
9 ~~financial resources; and~~

10 ~~(c) Telecommunications identifying information or access~~
11 ~~device means a card, plate, code, account number, mobile~~
12 ~~identification number, or other telecommunications service,~~
13 ~~equipment, or instrument identifier or means of account access that~~
14 ~~alone or in conjunction with other telecommunications identifying~~
15 ~~information or another telecommunications access device may be~~
16 ~~used to: (i) Obtain money, goods, services, or any other thing of~~
17 ~~value; or (ii) initiate a transfer of funds other than a transfer~~
18 ~~originated solely by a paper instrument.~~

19 Sec. 11. (1) A person commits the crime of identity
20 theft if he or she knowingly takes, purchases, manufactures,
21 records, possesses, or uses any personal identifying information or
22 entity identifying information of another person or entity without
23 the consent of that other person or entity or creates personal
24 identifying information for a fictional person or entity, with the
25 intent to obtain or use the other person's or entity's identity
26 for any unlawful purpose or to cause loss to a person or entity
27 whether or not the person or entity actually suffers any economic

1 loss as a result of the offense, or with the intent to obtain or
2 continue employment or with the intent to gain a pecuniary benefit
3 for himself, herself, or another.

4 (2) Identity theft is not:

5 (a) The lawful obtaining of credit information in the
6 course of a bona fide consumer or commercial transaction;

7 (b) The lawful, good faith exercise of a security
8 interest or a right of setoff by a creditor or a financial
9 institution;

10 (c) The lawful, good faith compliance by any person
11 when required by any warrant, levy, garnishment, attachment, court
12 order, or other judicial or administrative order, decree, or
13 directive; or

14 (d) The investigative activities of law enforcement.

15 (3)(a) Identity theft is a Class III felony if the
16 credit, money, goods, services, or other thing of value that was
17 gained or was attempted to be gained was one thousand five hundred
18 dollars or more. Any second or subsequent conviction under this
19 subdivision is a Class II felony.

20 (b) Identity theft is a Class IV felony if the credit,
21 money, goods, services, or other thing of value that was gained
22 or was attempted to be gained was five hundred dollars or more
23 but less than one thousand five hundred dollars. Any second or
24 subsequent conviction under this subdivision is a Class III felony.

25 (c) Identity theft is a Class I misdemeanor if the
26 credit, money, goods, services, or other thing of value that was
27 gained or was attempted to be gained was two hundred dollars or

1 more but less than five hundred dollars. Any second or subsequent
2 conviction under this subdivision is a Class IV felony.

3 (d) Identity theft is a Class II misdemeanor if no
4 credit, money, goods, services, or other thing of value was
5 gained or was attempted to be gained, or if the credit, money,
6 goods, services, or other thing of value that was gained or was
7 attempted to be gained was less than two hundred dollars. Any
8 second conviction under this subdivision is a Class I misdemeanor,
9 and any third or subsequent conviction under this subdivision is a
10 Class IV felony.

11 (e) A person found guilty of violating this section may,
12 in addition to the penalties under this subsection, be ordered to
13 make restitution pursuant to sections 29-2280 to 29-2289.

14 Sec. 12. (1) A person commits the crime of identity fraud
15 if he or she without lawful authority:

16 (a) Makes, counterfeits, alters, or mutilates any
17 personal identification document with the intent to deceive
18 another; or

19 (b) Willfully and knowingly obtains, possesses, uses,
20 sells or furnishes or attempts to obtain, possess, or furnish
21 to another person for any purpose of deception a personal
22 identification document.

23 (2)(a) Identity fraud is a Class I misdemeanor. Any
24 second or subsequent conviction under this subdivision is a Class
25 IV felony.

26 (b) A person found guilty of violating this section may,
27 in addition to the penalties under this subsection, be ordered to

1 make restitution pursuant to sections 29-2280 to 29-2289.

2 Sec. 13. Section 28-611, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 28-611 (1) Whoever obtains property, services, or present
5 value of any kind by issuing or passing a check, draft, assignment
6 of funds, or similar signed order for the payment of money, ~~knowing~~
7 ~~that he or she has no account with the drawee at the time the~~
8 ~~check, draft, assignment of funds, or order is issued or, if he or~~
9 ~~she has an account,~~ knowing that he or she does not have sufficient
10 funds in or credit with the drawee for the payment of the check,
11 draft, assignment of funds, or order in full upon presentation,
12 commits the offense of issuing a bad check. Issuing a bad check is:

13 (a) A Class III felony if the amount of the check, draft,
14 assignment of funds, or order is one thousand five hundred dollars
15 or more;

16 (b) A Class IV felony if the amount of the check, draft,
17 assignment of funds, or order is five hundred dollars or more, but
18 less than one thousand five hundred dollars;

19 (c) A Class I misdemeanor if the amount of the check,
20 draft, assignment of funds, or order is ~~one~~ two hundred dollars or
21 more, but less than five hundred dollars; and

22 (d) A Class II misdemeanor if the amount of the check,
23 draft, assignment of funds, or order is less than ~~one~~ two hundred
24 dollars.

25 (2) The aggregate amount of any series of checks, drafts,
26 assignments, or orders issued or passed within a sixty-day period
27 in one county may be used in determining the classification of the

1 offense pursuant to ~~this~~ subsection (1) of this section, except
2 that checks, drafts, assignments, or orders may not be aggregated
3 into more than one offense.

4 ~~(2)~~ (3) For any second or subsequent offense under
5 subdivision (1)(c) or (1)(d) of this section, any person so
6 offending shall be guilty of a Class IV felony.

7 ~~(3)~~ (4) Whoever otherwise issues or passes a check,
8 draft, assignment of funds, or similar signed order for the payment
9 of money, ~~knowing that he or she has no account with the drawee at~~
10 ~~the time the check, draft, assignment of funds, or order is issued~~
11 ~~or, if he or she has an account,~~ knowing that he or she does not
12 have sufficient funds in or credit with the drawee for the payment
13 of the check, draft, assignment of funds, or order in full upon its
14 presentation, shall be guilty of a Class II misdemeanor.

15 ~~(4)~~ (5) Any person in violation of this section who
16 makes voluntary restitution to the injured party for the value of
17 the check, draft, assignment of funds, or order shall also pay
18 ten dollars to the injured party and any reasonable handling fee
19 imposed on the injured party by a financial institution.

20 ~~(5)~~ (6) In any prosecution ~~when~~ for issuing a bad check,
21 the person issuing the check, draft, assignment of funds, or order
22 ~~has an account with the drawee,~~ he or she shall be presumed to have
23 known that he or she did not have sufficient funds in or credit
24 with the drawee for the payment of the check, draft, assignment of
25 funds, or order in full upon presentation if, within thirty days
26 after issuance of the check, draft, assignment of funds, or order,
27 he or she was notified that the drawee refused payment for lack of

1 funds and he or she failed within ten days after such notice to
2 make the check, draft, assignment of funds, or order good or, in
3 the absence of such notice, he or she failed to make the check,
4 draft, assignment of funds, or order good within ten days after
5 notice that such check, draft, assignment of funds, or order has
6 been returned to the depositor was sent to him or her by the county
7 attorney or his or her deputy, by United States mail addressed to
8 such person at his or her last-known address. Upon request of the
9 depositor and the payment of ten dollars for each check, draft,
10 assignment of funds, or order, the county attorney or his or her
11 deputy shall be required to mail notice to the person issuing the
12 check, draft, assignment of funds, or order as provided in this
13 subsection. The ten-dollar payment shall be payable to the county
14 treasurer and credited to the county general fund. No such payment
15 shall be collected from any county office to which such a check,
16 draft, assignment of funds, or order is issued in the course of the
17 official duties of the office.

18 ~~(6)~~ (7) Any person convicted of violating this section
19 may, in addition to a fine or imprisonment, be ordered to make
20 restitution to the party injured for the value of the check, draft,
21 assignment of funds, or order and to pay ten dollars to the injured
22 party and any reasonable handling fee imposed on the injured party
23 by a financial institution. If the court, in addition to sentencing
24 any person to imprisonment under this section, also enters an order
25 of restitution, the time permitted to make such restitution shall
26 not be concurrent with the sentence of imprisonment.

27 ~~(7)~~ (8) The fact that restitution to the party injured

1 has been made and that ten dollars and any reasonable handling
2 fee imposed on the injured party by a financial institution have
3 been paid to the injured party shall be a mitigating factor in the
4 imposition of punishment for any violation of this section.

5 Sec. 14. (1) Whoever issues or passes a check, draft,
6 assignment of funds, or similar signed order for the payment of
7 money, knowing that he or she has no account with the drawee
8 at the time the check, draft, assignment of funds, or order is
9 issued, commits the offense of issuing a no-account check. Issuing
10 a no-account check is:

11 (a) A Class III felony if the amount of the check, draft,
12 assignment of funds, or order is one thousand five hundred dollars
13 or more;

14 (b) A Class IV felony if the amount of the check, draft,
15 assignment of funds, or order is five hundred dollars or more, but
16 less than one thousand five hundred dollars;

17 (c) A Class I misdemeanor if the amount of the check,
18 draft, assignment of funds, or order is two hundred dollars or
19 more, but less than five hundred dollars; and

20 (d) A Class II misdemeanor if the amount of the check,
21 draft, assignment of funds, or order is less than two hundred
22 dollars.

23 (2) The aggregate amount of any series of checks, drafts,
24 assignments, or orders issued or passed within a sixty-day period
25 in one county may be used in determining the classification of the
26 offense pursuant to subsection (1) of this section, except that
27 checks, drafts, assignments, or orders may not be aggregated into

1 more than one offense.

2 (3) For any second or subsequent offense under this
3 section, any person so offending shall be guilty of:

4 (a) A Class III felony if the amount of the check, draft,
5 assignment of funds, or order is five hundred dollars or more; and

6 (b) A Class IV felony if the amount of the check, draft,
7 assignment of funds, or order is less than five hundred dollars.

8 Sec. 15. Section 29-110, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 29-110 (1) Except as otherwise provided by law, no person
11 shall be prosecuted for any felony unless the indictment is found
12 by a grand jury within three years next after the offense has
13 been done or committed or unless a complaint for the same is filed
14 before the magistrate within three years next after the offense
15 has been done or committed and a warrant for the arrest of the
16 defendant has been issued.

17 (2) Except as otherwise provided by law, no person shall
18 be prosecuted, tried, or punished for any misdemeanor or other
19 indictable offense below the grade of felony or for any fine or
20 forfeiture under any penal statute unless the suit, information,
21 or indictment for such offense is instituted or found within one
22 year and six months from the time of committing the offense or
23 incurring the fine or forfeiture or within one year for any offense
24 the punishment of which is restricted by a fine not exceeding one
25 hundred dollars and to imprisonment not exceeding three months.

26 (3) Except as otherwise provided by law, no person
27 shall be prosecuted for kidnapping under section 28-313, false

1 imprisonment under section 28-314 or 28-315, child abuse under
2 section 28-707, pandering under section 28-802, debauching a
3 minor under section 28-805, or an offense under section 28-813,
4 28-813.01, or 28-1463.03 when the victim is under sixteen years of
5 age at the time of the offense (a) unless the indictment for such
6 offense is found by a grand jury within seven years next after the
7 offense has been committed or within seven years next after the
8 victim's sixteenth birthday, whichever is later, or (b) unless a
9 complaint for such offense is filed before the magistrate within
10 seven years next after the offense has been committed or within
11 seven years next after the victim's sixteenth birthday, whichever
12 is later, and a warrant for the arrest of the defendant has been
13 issued.

14 (4) No person shall be prosecuted for a violation of
15 the Securities Act of Nebraska under section 8-1117 unless the
16 indictment for such offense is found by a grand jury within five
17 years next after the offense has been done or committed or unless
18 a complaint for such offense is filed before the magistrate within
19 five years next after the offense has been done or committed and a
20 warrant for the arrest of the defendant has been issued.

21 (5) No person shall be prosecuted for criminal
22 impersonation under section 10 of this act, identity theft under
23 section 11 of this act, or identity fraud under section 12 of this
24 act unless the indictment for such offense is found by a grand
25 jury within five years next after the offense has been done or
26 committed or unless a complaint for such offense is filed before
27 the magistrate within five years next after the offense has been

1 done or committed and a warrant for the arrest of the defendant
2 has been issued.

3 ~~(5)~~ (6) There shall not be any time limitations for
4 prosecution or punishment for treason, murder, arson, forgery,
5 sexual assault in the first or second degree under section 28-319
6 or 28-320, sexual assault of a child in the second or third degree
7 under section 28-320.01, or sexual assault of a child in the
8 first degree under section 28-319.01; nor shall there be any time
9 limitations for prosecution or punishment for sexual assault in the
10 third degree under section 28-320 when the victim is under sixteen
11 years of age at the time of the offense.

12 ~~(6)~~ (7) The time limitations prescribed in this section
13 shall include all inchoate offenses pursuant to the Nebraska
14 Criminal Code and compounding a felony pursuant to section 28-301.

15 ~~(7)~~ (8) The time limitations prescribed in this section
16 shall not extend to any person fleeing from justice.

17 ~~(8)~~ (9) When any suit, information, or indictment for any
18 crime or misdemeanor is limited by any statute to be brought or
19 exhibited within any other time than is limited by this section,
20 then the suit, information, or indictment shall be brought or
21 exhibited within the time limited by such statute.

22 ~~(9)~~ (10) If any suit, information, or indictment is
23 quashed or the proceedings set aside or reversed on writ of
24 error, the time during the pendency of such suit, information, or
25 indictment so quashed, set aside, or reversed shall not be reckoned
26 within this statute so as to bar any new suit, information, or
27 indictment for the same offense.

1 ~~(10)~~ (11) The changes made to this section by Laws 2004,
2 LB 943, shall apply to offenses committed prior to April 16, 2004,
3 for which the statute of limitations has not expired as of such
4 date and to offenses committed on or after such date.

5 ~~(11)~~ (12) The changes made to this section by Laws 2005,
6 LB 713, shall apply to offenses committed prior to September 4,
7 2005, for which the statute of limitations has not expired as of
8 such date and to offenses committed on or after such date.

9 Sec. 16. If any section in this act or any part of any
10 section is declared invalid or unconstitutional, the declaration
11 shall not affect the validity or constitutionality of the remaining
12 portions.

13 Sec. 17. Original sections 28-101, 28-518, 28-608,
14 28-611, and 29-110, Reissue Revised Statutes of Nebraska, are
15 repealed.